
GENERAL NOTICES/ERRATA

The Commonwealth intends to submit portions of the regulations to the EPA as a revision to the SIP in accordance with the requirements of § 110(a) of the federal Clean Air Act.

Regulations affected: The regulations of the board affected by this action are General Provisions, Malfunctions (9VAC5-20, Revisions D97 and B16) and Existing Stationary Sources (9VAC5-40, Revisions C09, D09, and E09).

Purpose of notice: DEQ is seeking comment on the issue of whether the regulation amendments should be submitted as a revision to the SIP.

Public comment period: June 27, 2016, to July 27, 2016.

Public hearing: A public hearing may be conducted if a request is made in writing to the contact listed at the end of this notice. In order to be considered, the request must include the full name, address, and telephone number of the person requesting the hearing and be received by DEQ by the last day of the comment period. Notice of the date, time, and location of any requested public hearing will be announced in a separate notice, and another 30-day comment period will be conducted.

Public comment stage: Because the regulation amendments have already been adopted, DEQ is accepting comment only on the issue cited under "purpose of notice" and not on the content of the regulation amendments.

Description of proposal: Three sets of regulatory amendments are being considered for this proposal. Revision D97 originally amended 9VAC5-20-180 but was not submitted as a SIP revision; portions of it are now being submitted in order to provide a correct baseline for the provisions of Revision B16. As discussed below, sections relevant to 9VAC5-20-180 are also be submitted for the purpose of several volatile organic compound (VOC) regulations.

Revision D97: Under this revision, 9VAC5-20-180 was amended as follows: (i) provisions were added to clarify that 9VAC5-20-180 applies to only facility and control equipment maintenance or malfunction; (ii) provisions were added to specify an affirmative defense does not apply to excess emissions due to malfunction or maintenance for sources subject to new source performance standards, national emission standards for hazardous air pollutants, maximum achievable control technology, or acid rain provisions of the federal Clean Air Act or that cause an exceedance of an ambient air quality standard or prevention of significant deterioration (PSD) ambient air quality increment; (iii) provisions were changed to be consistent with recommendations made pursuant to the review of existing regulations mandated by Executive Order 15(94); (iv) provisions pertaining to malfunctions for hazardous air pollution sources were revised because they were not consistent with requirements pertaining to sources that meet

AIR POLLUTION CONTROL BOARD

Proposed State Implementation Plan Revision - 9VAC5-20, Revisions D97 and B16; 9VAC5-40, Revisions C09, D09, and E09

Notice of action: The Department of Environmental Quality (DEQ) is announcing an opportunity for public comment on a proposed revision to the Commonwealth of Virginia State Implementation Plan (SIP). The SIP is a plan developed by the Commonwealth in order to fulfill its responsibilities under the federal Clean Air Act to attain and maintain the ambient air quality standards promulgated by the U.S. Environmental Protection Agency (EPA) under the federal Clean Air Act.

federal standards for hazardous air pollutants; (v) provisions that provide legal relief if a violation has taken place due to excess emissions as a result of facility and control equipment maintenance or malfunction were changed in order to entitle the owner of a facility to use an affirmative defense for relief from penalties; (vi) provisions pertaining to facility and control equipment maintenance or malfunction were changed to incorporate the limitations and the criteria for an affirmative defense; and (vii) provisions that authorize the board to reduce the level of operation or shut down a facility if it is necessary to prevent a violation of any primary ambient air quality standard were expanded to include any ambient air increment identified in the PSD program.

Revision B16: On June 12, 2015 (80 FR 33840), EPA issued a final SIP call concerning treatment of excess emissions in state rules by sources during periods of startup, shutdown, or malfunction (SSM), including Virginia's SSM rules at 9VAC5-20-180 G. The U.S. Court of Appeals for the District of Columbia Circuit has held that such provisions are illegal, and state plans must be amended accordingly. Essentially, EPA finds that 9VAC5-20-180 G creates an impermissible affirmative defense for violations of emission limits, and therefore 9VAC5-20-180 G must be amended. 9VAC5-20-180 C must also be amended for 9VAC5-20-180 G to operate properly and to make several minor administrative changes.

Revisions C09, D09, and E09: At the time these regulations were promulgated, there was uncertainty as to the status of Virginia's malfunction regulations; therefore, those provisions were not submitted as SIP revisions when the rest of the rules were submitted to EPA on February 1, 2016. Now that the issue of malfunctions has been resolved and 9VAC5-20-180 has been amended to EPA's satisfaction, reference to 9VAC5-20-180 may now be submitted for the purpose of these rules.

Federal information: This notice is being given to satisfy the public participation requirements of federal regulations (40 CFR 51.102) and not any provision of state law. Except as noted below, the proposal will be submitted as a revision to the Commonwealth of Virginia SIP under § 110(a) of the federal Clean Air Act in accordance with 40 CFR 51.104. Only the directly amended provisions of the proposal will be submitted as a revision to the Commonwealth of Virginia SIP, and no provisions relevant to hazardous air pollutants will be submitted. In addition, the D97 version of 9VAC5-20-180 G will not be submitted as it is superseded by the B16 version.

How to comment: DEQ accepts written comments by email, fax, and postal mail. In order to be considered, comments must include the full name, address, and telephone number of the person commenting and be received by DEQ by the last day of the comment period. All comments, exhibits, and documents received are part of the public record.

To review documents: The proposal and any supporting documents are available on the DEQ Air Public Notices for

Plans website (<http://www.deq.state.va.us/Programs/Air/PublicNotices/airplansandprograms.aspx>). The documents may also be obtained by contacting the DEQ representative named at the end of this notice. The public may review the documents between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period at the following DEQ locations:

- 1) Main Street Office, 8th Floor, 629 East Main Street, Richmond, VA, telephone (804) 698-4070,
- 2) Southwest Regional Office, 355 Deadmore Street, Abingdon, VA, telephone (276) 676-4800,
- 3) Blue Ridge Regional Office, Roanoke Location, 3019 Peters Creek Road, Roanoke, VA, telephone (540) 562-6700,
- 4) Blue Ridge Regional Office, Lynchburg Location, 7705 Timberlake Road, Lynchburg, VA, telephone (434) 582-5120,
- 5) Valley Regional Office, 4411 Early Road, Harrisonburg, VA, telephone (540) 574-7800,
- 6) Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA, telephone (804) 527-5020,
- 7) Northern Regional Office, 13901 Crown Court, Woodbridge, VA, telephone (703) 583-3800, and
- 8) Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA, telephone (757) 518-2000.

Contact Information: Karen Sabasteanski, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4426, FAX (804) 698-4510, or email karen.sabasteanski@deq.virginia.gov.